

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ENCOMPASS INSURANCE COMPANY OF
MASSACHUSETTS,

Plaintiff,

v.

Case No. 05-11693 RCL

JOSEPH D. GIAMPA, FREDERICK T. GIAMPA,
ADVANCED SPINE CENTERS, INC. d/b/a
FIRST SPINE REHAB, FUTURE
MANAGEMENT CORPORATION,
FUTURE MANAGEMENT BUSINESS TRUST,
EDWARD KENNEDY, BRIAN J. CULLINEY,
D.C., and JENNIFER McCONNELL, D.C.

Defendants.

**DEFENDANTS JOSEPH D. GIAMPA, FREDERICK T. GIAMPA, ADVANCED
SPINE CENTERS, INC. d/b/a FIRST SPINE REHAB, AND FUTURE
MANAGEMENT CORPORATION'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO FED.R.CIV. P.12(b)(6) and FED.R.CIV.P.9(b)**

The Defendants Joseph D. Giampa, Frederick T. Giampa, Advanced Spine Centers, Inc. d/b/a First Spine Rehab, Future Management Corporation and Future Management Business Trust (hereinafter "The Moving Defendants) hereby move, pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure, that the Plaintiff's Complaint be dismissed in its entirety.

In support thereof, the Moving Defendants submit the attached Memorandum of Law in Support of in support of their Motion to Dismiss Plaintiff's Complaint.

WHEREFORE, the moving defendants respectfully request that the Court allow the Motion and dismiss the Plaintiff's Complaint as well as whatever other relief the Court deems appropriate.

/s/ Matthew J. Conroy

Matthew J. Conroy (BBO# 566928)
Katherine L. Kurtz (BBO # 658026)
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Dated: September 06, 2005

CERTIFICATE OF SERVICE

I, Matthew J. Conroy do hereby certify that a true and accurate copy of the foregoing pleading was served upon all counsel of record by mailing the same United States Mail, 1st Class, postage prepaid this 6th day of September 2005.

/s/ Matthew J. Conroy
Matthew J. Conroy